

§ 1304.3

on a TVA reservoir or above the normal high water elevation if on a free-flowing stream or river; and

(G) Show the north arrow.

(iii) *Location map.* The location map must clearly indicate the exact location and extent of site disturbance for the proposed project. An 8½- by 11-inch copy of the appropriate portion of a United States Geological Survey topographic map is recommended. The map number or name shall be included. In addition, recent photos of the location are helpful for TVA's review and may be included.

(iv) *Other information where applicable.* The location of any material laydown or assembly areas, staging areas, equipment storage areas, new access roads, and road/access closure required by the project or needed for construction; the location of borrow or spoil areas on or off TVA land; the extent of soil and vegetative disturbance; and information on any special reservoir operations needed for the project, such as drawdown or water discharge restrictions.

(v) *Site plans.* Some projects, particularly larger ones, may require a separate site plan which details existing and proposed changes to surface topography and elevations (cut and fill, clearing, etc.), location of all proposed facilities, and erosion control plans.

(vi) *Environmental consultations and permits.* To the fullest extent possible the applicant shall obtain or apply for other required environmental permits and approvals before or at the same time as applying for section 26a approvals. Consultations under the National Historic Preservation Act of 1966 and the Endangered Species Act of 1973 shall take place, and permits from the U.S. Army Corps of Engineers and State agencies for water or air regulation shall be obtained or applied for at the same time as or before application for section 26a approval. The applicant shall provide TVA with copies of any such permits or approvals that are issued.

(d) *Discharges into navigable waters of the United States.* If construction, maintenance, or operation of the proposed structure or any part thereof, or the conduct of the activity in connection with which approval is sought, may re-

18 CFR Ch. XIII (4-1-08 Edition)

sult in any discharge into navigable waters of the United States, applicant shall also submit with the application, in addition to the material required by paragraph (c) of this section, a certification from the State in which such discharge would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge would originate, or from the Environmental Protection Agency, that such State or interstate agency or the Environmental Protection Agency has determined that there is reasonable assurance that the applicant's proposed activity will be conducted in a manner which will not violate applicable water quality standards. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharges.

EFFECTIVE DATE NOTE: At 68 FR 46936, Aug. 7, 2003, §1304.2 was revised. Paragraphs (b), (c), and (d) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 1304.3 Delegation of authority.

The power to approve or disapprove applications under this part is delegated to the Vice President, Resource Stewardship, or the designee thereof, subject to appeal to the Board as provided in §1304.6. In his/her discretion, the Vice President may submit any application and supporting materials to the Board for its approval or disapproval. Administration of the handling of applications is delegated to Resource Stewardship.

§ 1304.4 Application review and approval process.

(a) TVA shall notify the U.S. Army Corps of Engineers (USACE) and other Federal agencies with jurisdiction of the application as appropriate.

(b) If a hearing is held for any of the reasons described in paragraph (c) of

Tennessee Valley Authority

§ 1304.6

this section, any interested person may become a party of record by following the directions contained in the hearing notice.

(c) Hearings concerning approval of applications are conducted (in accordance with §1304.5) when:

(1) TVA deems a hearing is necessary or appropriate in determining any issue presented by the application;

(2) A hearing is required under any applicable law or regulation;

(3) A hearing is requested by the USACE pursuant to the TVA/Corps joint processing Memorandum of Understanding; or

(4) The TVA Investigator directs that a hearing be held.

(d) Upon completion of the review of the application, including any hearing or hearings, the Vice President shall issue a decision approving or disapproving the application. The basis for the decision shall be set forth in the decision.

(e) Promptly following the issuance of the decision, the Vice President or the Board, as the case may be, shall furnish a written copy thereof to the applicant and to any parties of record. The Vice President's decision shall become final unless an appeal is made pursuant to §1304.6. Any decision by the Board on a matter referred by the Vice President shall be a final decision.

§ 1304.5 Conduct of hearings.

(a) If a hearing is to be held for any of the reasons described in §1304.4(c), TVA shall give notice of the hearing to interested persons. Such notice may be given by publication in the FEDERAL REGISTER, publication in a daily newspaper of general circulation in the area of the proposed structure, personal written notice, posting on TVA's Internet website, or by any other method reasonably calculated to come to the attention of interested persons. The notice shall indicate the place, date, and time of hearing (to the extent feasible), the particular issues to which the hearing will pertain, and the manner of becoming a party of record, and shall provide other pertinent information as appropriate. The applicant shall automatically be a party of record.

(b) Hearings may be conducted by the Vice President and/or such other per-

son or persons as may be designated by the Vice President or the Board for that purpose. Hearings are public and are conducted in an informal manner. Parties of record may be represented by counsel or other persons of their choosing. Technical rules of evidence are not observed although reasonable bounds are maintained as to relevancy, materiality, and competency. Evidence may be presented orally or by written statement and need not be under oath. Cross-examination by parties of witnesses or others providing statements or testifying at a hearing shall not be allowed. After the hearing has been completed, additional evidence will not be received unless it presents new and material matter that in the judgment of the person or persons conducting the hearing could not be presented at the hearing. Where construction of the project also requires the approval of another agency of the Federal Government by or before whom a hearing is to be held, the Vice President may arrange with such agency to hold a joint hearing.

§ 1304.6 Appeals.

(a) Decisions approving or disapproving an application may be appealed as provided in this section. Decisions by the Vice President's designee shall be reviewed by the Vice President; decisions by the Vice President shall be reviewed by the Board.

(b) If a designee of the Vice President disapproves an application or approves it with terms and conditions deemed unacceptable by the applicant, the applicant may, by written request addressed to the Vice President, Resource Stewardship, Tennessee Valley Authority, P.O. Box 1589, 17 Ridgeway Road, Norris, TN 37828-1589, and mailed within thirty (30) days after receipt of the decision, obtain review of the decision by the Vice President. If the Vice President, either initially or as the result of an appeal, disapproves an application or approves it with terms and conditions deemed unacceptable by the applicant, the applicant may, by written request addressed to the Board of Directors, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, TN 37902, and mailed within thirty (30)